

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

RELIANT CARE MANAGEMENT)	
COMPANY, L.L.C., et al.,)	
)	
Plaintiffs,)	
)	Case No: 4:10-CV-00038-CDP
vs.)	
)	
HEALTH SYSTEMS, INC., et al.,)	Jury Trial Demanded
)	
Defendants.)	
_____)	

DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT ON COUNT I

Defendants Health Systems Inc. ("Health Systems"), N & R of Platte City, Inc. ("Hillview"), Jonathan Harrup ("Harrup"), N&R of Chillicothe, Inc. ("Great River"), N&R of Farmington, LLC ("St. Francois"), N&R of Sweet Springs, Inc. ("Sweet Springs") and Vienna Nursing & Rehab, LLC ("Vienna Nursing") (collectively "Defendants"), by and thorough counsel, for their Motion for Partial Summary Judgment on Count I of Plaintiffs' Amended Complaint, state as follows:

1. Plaintiffs seek copyright protection for ideas, procedures, processes, systems and methods of operation – to which copyright protection does not extend. 17 U.S.C. § 102(b). Because the copyright material at issue is not protectable, there is no copyright infringement.

2. Even if the alleged copyright materials have protectable elements, the scope of any alleged protection in the Focus Program is thin because it is merely a collection of facts. Assuming, *arguendo*, Plaintiffs have thin copyright protection, their claims fail because there is no verbatim copying of Plaintiffs' work, which is the heightened burden of proof required to establish infringement of thin copyrights such as Plaintiffs.

3. Finally, assuming Plaintiffs have a protectable copyright, none of Defendants' programs or materials infringes Plaintiffs' copyright. Defendants' accused works do not copy the Focus Program, nor are they substantially similar to it.

WHEREFORE, for the foregoing reasons and as set forth more fully in Defendants' Memorandum in Support of Motion for Partial Summary Judgment filed herewith and incorporated by reference herein, Defendants pray for summary judgment on Count I of the Amended Complaint in its entirety, and for such other and further relief as the Court deems appropriate under the circumstances. Oral argument is requested.

Respectfully submitted,

Dated June 15, 2011

ARMSTRONG TEASDALE LLP

BY: /s/ Daniel Sakaguchi

John H. Quinn III # 26350MO

Nicholas B. Clifford, Jr. # 44477MO

Daniel Sakaguchi # 55254MO

7700 Forsyth Boulevard, Suite 1800

St. Louis, Missouri 63105

(314) 621-5070

(314) 621-5065 (facsimile)

jquinn@armstrongteasdale.com

nclifford@armstrongteasdale.com

dsakaguchi@armstrongteasdale.com

ATTORNEYS FOR DEFENDANTS HEALTH
SYSTEMS, INC., N & R OF PLATTE CITY,
INC., JONATHAN HARRUP, N&R OF
CHILLICOTHE, INC., N&R OF
FARMINGTON, LLC, N&R OF SWEET
SPRINGS, INC. AND VIENNA NURSING &
REHAB, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 15th day of November 2011, a true and accurate copy of the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon all counsel of record.

/s/ Daniel Sakaguchi
John H. Quinn III # 26350MO
Nicholas B. Clifford, Jr. # 44477MO
Daniel Sakaguchi # 55254MO
ARMSTRONG TEASDALE LLP
7700 Forsyth Boulevard, Suite 1800
St. Louis, Missouri 63105
(314) 621-5070
(314) 621-5065 (facsimile)
jquinn@armstrongteasdale.com
nclifford@armstrongteasdale.com
dsakaguchi@armstrongteasdale.com

ATTORNEYS FOR DEFENDANTS
HEALTH SYSTEMS, INC., N & R OF
PLATTE CITY, INC., JONATHAN
HARRUP, N&R OF CHILLICOTHE,
INC., N&R OF FARMINGTON, LLC,
N&R OF SWEET SPRINGS, INC. AND
VIENNA NURSING & REHAB, LLC